

# **MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS**

**OCTOBER 10, 2007**

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **October 10, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

## **ROLL CALL**

12 present, 0 absent

## **PRAYER**

Commissioners were led in prayer by Commissioner Foley.

## **APPROVAL OF THE MINUTES OF THE SEPTEMBER 5, 2007 AND THE SEPTEMBER 19, 2007 REGULAR MEETINGS AND THE SEPTEMBER 26 SPECIAL MEETING**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with unanimous verbal vote to approve the Minutes of the September 5<sup>th</sup> and September 19, 2007 Regular Meeting and the Minutes of the September 26, 2007 Special Meeting.

## **ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES**

None

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

None

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb informed the council that there are a few groups that are looking at some form of water recreation in our Community. In his conversation with Cindy McIlveen she had an idea to pull everybody together. Ms. Doran, Parks and Recreation Board and the Ad Hoc Group that he had put together and make sure that we are all working to the same goal.

The wage and salary survey is moving forward. We are working to have that complete by the end of this year. There are 32 different communities that we are doing the surveys with so a lot of that will depend on how quickly they get us the information back.

We have been working with the Russ Reid Company and getting them as much information on Butte-Silver Bow that we can gather so they can start putting together their plan to look money for Butte-Silver Bow. They will be coming to our community next week. We will report on that at our next Regular Meeting.

The Transportation Coordinating Council met and if you have any questions please get in touch with Jon Sesso, the chairman.

Congratulations to Montana Tech and our Legislative delegation with the new Natural Resource Building. We will have a building here in the next year or so and we will be celebrating a grand opening of something that has been needed. If it wasn't for our Legislative delegation we wouldn't be where we are today with it.

## **SECTION I**

### **PRESENTATION COMMUNICATION NO. 07-631**

Fran Doran, President Splash Butte, requesting time on the 10/10/07 Agenda for Maarten Voogd to make a presentation on Splash Butte Project.

Chief Executive Babb announced that this presentation has been cancelled.

**It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 07-631 on file.**

## **SECTION II**

### **PRESENTATION COMMUNICATION NO. 07-663**

Patrick M. Callaghan, County Treasurer, requesting time on agenda to discuss Deputy Treasurer Doreen Shaul's position and retirement effective December 31, 2007.

Pat Callaghan, Treasurer, 2123 Johns, came to the microphone and said he was asking for permission to hire an early replacement for Doreen Shaul. She is responsible for receiving all Federal and state funds that come into Butte-Silver Bow and making sure that they are posted to the different line items. She also maintains the codes. She is irreplaceable. In November and December we will be swamped with bringing in taxes and he doesn't have the help in his office to do the cross-training. It's vital that we hire someone now. He needs money for this

person for November and December. That way Doreen Shaul can train this person.

Jeff Amerman, Finance and Budget Director, came to the microphone and said that normally we don't hire anyone until that employee is gone and generally can't hire until after they have paid out whatever their sick and vacation is. A lot of time we have people waiting for months and months. There are occasions when a position is critical enough that we will pay out the vacation and the sick from the Associated Cost Funds as we did with Judge Newman when he left the County Attorney's Office. It is very rare to have somebody in before the person has left. This position is so critical and there is virtually no backup. We would come to a standstill if that work does not get done. We ask for authority to hire the position prior to Dorene's departure. The cost will be approximately \$6,000.00. That will have to be additional budget authority to come from reserves but what I would recommend is that Council would wait until after December 31<sup>st</sup> to do that when you know what the amount is.

Commissioner O'Leary asked if Mr. Callaghan had anyone in his office that would want to move into that position. He answered no. Doreen hasn't had more than two weeks at a time vacation for the last 10 years. That's how critical her job is. She's been there. She's an absolute jewel. We are down to a skeleton crew and the months of November and December we will be swamped.

**It was moved by Commissioner Sorich, seconded by Commissioner Coleman and carried by a unanimous verbal vote to approve the request of Mr. Callaghan's in Communication No. 07-633. On the question Commissioner O'Leary asked Jeff Amerman do we need to do the authority to hire and what about the money. Mr. Amerman stated that could come later. There is enough money to operate for the year. It will have to come and he would recommend that we don't request that increase budget authority until we know exactly what it is that we need, which we will know by December 31<sup>st</sup>. Commissioner O'Leary added to the motion to place it on file and the correct number of this Communication is 07-662. Commissioner Lee seconded the motion and it carried with a unanimous verbal vote.**

At this point Chief Executive Babb Communication No. 07-649 from Section IV forward.

Communication No. 07-649

Paul Babb, Chief Executive, requesting concurrence in promotion of James Merrifield to Battalion Chief in the Butte-Silver Bow Fire Department.

John Lasky, Assistant Chief in the Fire Department, introduced James Merrifield to the Council.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request for promotion of Mr. James Merrifield to Battalion Chief in the Butte-Silver Bow Fire Department and place on file.**

### **SECTION III**

### **CONSENT AGENDA**

- A.**
  - 1. COMMITTEE OF THE WHOLE MEETING REPORT
  - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
  - 3. JUDICIARY COMMITTEE MEETING REPORT
  - 4. PUBLIC WORKS COMMITTEE MEETING REPORT

### **B. COMMUNICATIONS**

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations or friendly amendments.

Commission O’Leary segregated out of the Committee of the Whole Meeting Report Communication No. 07-586.

Commissioner Shaw segregated Communication No. 07-643.

Commissioner Coleman segregated Communication No. 07-667.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 with the exception of Communication No. 07-586 and section B, Items 1 through 9 and 16 through 33 with the exception of Item No. 31.**

### **Segregated Items**

Communication No. 07-586 – Paul Babb, Chief Executive, requesting Council recommendation from Tax Abatement Committee for Home Depot and schedule a public hearing..

Chief Executive Babb then called on the representative from Home Depot. Mitch Johnson, 370 Corporate Drive N. Tukwila, Washington 98118, came to the microphone. He stated he is an Area Real Estate Manager. Chief Executive Babb opened it up for Council questions. Commissioner O’Leary stated the question at hand is whether or not Butte-Silver Bow should provide a tax abatement to Home Depot as part of a package to get you to come here. How important is the tax abatement to Home Depot. Will you come if you don’t get the abatement. Will you definitely come if you do get the abatement. Mr. Johnson stated his mission is to build and develop Home Depot Stores in five western states. One of his goals is to get a store in Butte, Montana. This project is on the bubble. A tax abatement would sure get me in the right director. A tax abatement

and the Home Depot Construction person sharpening his pencil on the construction numbers, leads him to believe he will have a project that is viable. He also said that the tax abatement over the ten-year duration does not cover 100% of the costs of filling the whole. He answered several other questions from other commissioners.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee to approve a tax abatement for Home Depot. The roll call vote was 6 yeas and 6 nays with Chief Executive casting a yeas vote. The motion passed. Voting nay were Commissioners Sheehy, Mulcahy, Foley, Granger, Coleman and Moodry.**

Communication No. 07-643 – Mollie Maffei, Deputy County Attorney, regarding recommendation from Community Enrichment Committee that the Kelley Warehouse be retained in Butte-Silver Bow ownership for use by Butte-Silver Bow Departments.

Commissioner Shaw asked for a briefing from Jeff Amerman on this. He believes the Kelley Warehouse is either going to make us money or its going to cost us money. It we had a taxable market value of 2.5 million and there was maybe 10 % of that personal property. At the current tax rates with the appropriate commercial exemption that would generate approximately \$50,000 a year into the URA. If it goes out for development it will make us money. If it doesn’t it will cost us money. Chief Executive Babb also said that they asked for more time so they could start putting some numbers to what it would take if we needed to use it for our purpose or if we were going to use all of it or a portion of it that might go to the private sector. There is money through the Redevelopment Trust Fund. So rather than rush and try and come to something that we might regret, that to go to the end of the year gives us enough time to put some dollar figures in place to say here is the best way we think the proceed.

**It was moved by Commissioner Shaw, seconded by Commissioner Lee and carried by a unanimous verbal vote to place Communication No. 07-643 on file.**

Communication No. 07-667 – Dan Dennehy, health Officer, requesting authorization for Chief Executive to enter into various contracts.

Commissioner Coleman said he segregated this communication was because of the change of Mr. Dennehy’s position. If it’s not a problem to go ahead and enter into those contracts he recommended. Mr. Dennehy said the Board of Health approves those contract whether he is there or not. They will continue to approve those contracts.

It was moved by Commissioner Coleman, seconded by Commissioner Lee to concur and place on file. Motion passed with a unanimous verbal vote.

#### **SECTION IV                      COMMUNICATIONS TO BE READ AND ACTED UPON**

1. 07-649      Paul Babb, Chief Executive, requesting concurrence in promotion of James Merrifield to Battalion Chief in the Butte-Silver Bow Fire Department. **This was dealt with earlier in the agenda.**

- Ed Randall, Community Enrichment Coordinator, came to the microphone and asked permission to demolish two properties at 701 N. Wyoming. They were in a fire that damaged both of them. The owners have no insurance and no finances. The Health Department will lien the properties after demolition. The taxes are delinquent coming on three years now.

**SECTION V                      ORDINANCES AND RESOLUTIONS –  
REFERRED JUDICIARY**

AN ORDINANCE AMENDING CHAPTER 9.16 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED "PARK RESTRICTIONS", AMENDING SECTIONS 9.16.010, 9.16.020, 9.16.030, 9.16.040, 9.16.050, 9.16.060 AND 9.16.070 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); REGULATING THE PUBLIC USE AND HOURS OF USE OF THE EXTERIOR OF THE AREA AROUND THE BUS TRANSFER STATION AND THE FRONT LANDSCAPED AREA OF THE CIVIC CENTER AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

AN ORDINANCE AMENDING SECTION 2 OF BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 2.04.010 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); ADJUSTING THE ANNUAL SALARIES OF THE CHIEF EXECUTIVE, COUNTY ATTORNEY, SHERIFF, CLERK AND RECORDER, TREASURER, ASSESSOR, CITY JUDGE, JUSTICE OF THE PEACE, AUDITOR, SUPERINTENDENT OF SCHOOLS, CLERK OF THE DISTRICT COURT, CORONER AND MEMBERS OF THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND  
ABANDONING A PORTION OF MEADOWLARK LANE IN THE

SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M. WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

**4. COUNCIL RESOLUTION NO. 07-91**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE CARRUTHERS MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**5. COUNCIL RESOLUTION NO. 07-92**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE FLEECER VIEW PHASE II MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

**6. COUNCIL RESOLUTION NO. 07-93**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 21 IN BLOCK 20 OF THE NORTHERN PACIFIC ADDITION OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND FINDING THE NECESSARY FACTS HEREIN.

**SECTION VI ORDINANCES – 2<sup>ND</sup> READING**

**1. COUNCIL BILL NO. 07-15  
ORDINANCE NO. 07-15**

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED :SPEED LIMIT;” ESTABLISHING A 15 MPH SPEED LIMIT ON WOOLMAN STREET BEGINNING AT ITS INTERSECTION WITH WYOMING STREET ON THE EAST TO JACKSON STREET ON THE WEST AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 07-**

**15, Ordinance No. 07-15 on second reading and passed having been deemed fully read at length.**

**SECTION VII**

**ORDINANCES AND RESOLUTIONS –  
SUSPENSION OF THE RULES**

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call of 12 yeas and 0 nays to suspend the rules for the purpose of passing Council Bill No. 07-17, Ordinance No. 07-17 by waiving subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners thereby having it considered for advanced passage without reference to the Judiciary Committee.**

**1. COUNCIL BILL NO. 07-17  
ORDINANCE NO. 07-17**

**AN ORDINANCE AMENDING CHAPTER 2.14 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “LAND DIVISION”; AMENDING SECTIONS 2.14.010, 2.14.020, 2.14.030, 2.14.040, 2.14.060 AND 2.14.070, B-SB MC; CREATING A LAND RECORDS DEPARTMENT AND PROVIDING FOR A DEPARTMENT DIRECTOR; DECLARING THAT AN EMERGENCY CONDITION EXISTS AND FINDING THE NECESSARY FACTS FOR SUCH EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 07-17, Ordinance No. 07-17 on final reading having been deemed fully read at length.**

**ADJOURN**

**There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.**

**The meeting adjourned at 9:30 PM.**

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**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK AND RECORDER**